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FISCAL IMPACT STATEMENT

LS 7433

BILL NUMBER: HB 1589

NOTE PREPARED: Apr 8, 2009

BILL AMENDED: Apr 7, 2009

SUBJECT: Electronic Waste.

FIRST AUTHOR: Rep. Sullivan

FIRST SPONSOR: Sen. Gard

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED:

GENERAL

IMPACT: State & Local

**X DEDICATED
FEDERAL**

Summary of Legislation: (Amended) This bill requires manufacturers of video display devices (VDDs) to recycle covered electronic devices (CEDs) from households, public schools, and small businesses (covered entities) in the amount of at least 60% of the total weight of VDDs sold by the manufacturer to households during the most recent 12-month period for which national sales data is available. The bill provides that VDDs generally include televisions and computer monitors that are marketed to covered entities, but establishes various exceptions. The bill provides that a program year for the Electronic Waste Recycling Program begins April 1 and ends the following March 31, and that the first program year begins April 1, 2010.

Registration. The bill requires registration with the Department of Environmental Management (IDEM) for each program year by (1) manufacturers of VDDs; and (2) collectors and recyclers of CEDs. It requires manufacturers to submit to IDEM a compliance plan at the time of registration.

Definitions. The bill excludes from the definition of "collector" a service that accepts packages and delivers them to collectors or recyclers under a manufacturer's mailback program. To operate as a collector or as a recycler, requires that a person must submit to IDEM the registration currently required under rules of the Solid Waste Management Board and must otherwise comply with those rules. The bill allows IDEM to revoke the registration of a collector or recycler that violates those rules. It removes a definition that is never used.

Annual Reports. The bill requires a recycler to annually certify that the recycler has complied with those rules and to annually report to IDEM the total weight in pounds of CEDs taken for final disposal during the immediately preceding year.

Fees. The bill provides that a manufacturer must pay to IDEM a registration fee of \$5,000 for the initial program year and \$2,500 for each program year thereafter. For program years ending in 2013 or later, the bill imposes a variable recycling fee (VRF) on manufacturers that fail to meet the 60% goal. In the determination of the amount of the VRF, the bill (1) allows the application of recycling credits in the amount of 25% of the amount by which a manufacturer exceeded the recycling goal in the preceding three years; (2) applies favorable weighting for CEDs recycled in Indiana or recycled from covered entities not located in a metropolitan statistical area; (3) adjusts for higher fees for manufacturers with lower recycling performance; (4) requires IDEM to bill the fee to a manufacturer not later than September 1; and (5) permits a manufacturer to petition the Indiana Recycling Market Development Board for relief from the fee upon showing of good cause. It provides that the registration fee does not apply to a manufacturer that produces fewer than 100 VDDs for sale to households during a year and requires IDEM to provide refunds to manufacturers to the extent that registration fee revenue exceeds the amount needed to administer the program.

Reporting Requirements. The bill establishes reporting requirements for IDEM, manufacturers, recyclers, and collectors. It requires retailers to provide certain recycling information to households.

Prohibition. The bill prohibits governmental entities from requiring covered entities to use public facilities to recycle CEDs to the exclusion of other available recycling programs. It prohibits mixing by covered entities of certain electronic devices with municipal waste that is intended for disposal after 2010 at a landfill or by burning or incineration.

Department of Administration (IDOA). The bill requires the IDOA to ensure that acquisitions of VDDs by state agencies comply with the electronic waste recycling program, and allows the IDOA to void state contracts that violate the program in certain circumstances.

Electronic Waste Fund. The bill requires the deposit of the initial registration fee revenue in the fund, which is established to implement the Electronic Waste Recycling Program.

Indiana Recycling Promotion and Assistance Fund. The bill requires the deposit of VRF revenue in the Indiana Recycling Promotion and Assistance Fund.

Penalties. A covered entity that violates the Electronic Waste Recycling Law is not subject to criminal or civil action or penalty or any other sanction under state law.

Indiana Recycling Market Development Board. The board must receive petitions and make determinations pertaining to relief from the variable recycling fee.

Environmental Quality Service Council (EQSC). The bill requires the EQSC to study in 2012 certain issues concerning the Electronic Waste Recycling Program.

Effective Date: July 1, 2009.

Explanation of State Expenditures: Summary. Total administrative costs are estimated to range from \$148,606 to \$244,158, annually. The bill establishes a dedicated fund to pay for these administrative costs.

Additional Details.

Administrative Costs. Total administrative costs are estimated to range from \$148,606 to \$244,158, annually, based on the following. Personnel costs for registration would range from \$125,582 to \$207,918. These costs include fringe benefits and indirect costs for two EM2 positions. Additionally, about 4 hours per month of website maintenance would cost about \$1,500 annually. Administering the accounting of the fund and processing fees or payments could be done by using 50% of an accountant V position. Accounting costs would range between \$21,524 to \$34,740.

(Revised) *Background.* IDEM would need to operate a registration program for E-waste processors and manufacturers of certain electronics. The registration program would require review of applications and an annual renewal component. IDEM must provide a statement to each manufacturer liable for the variable recycling fee that states the amount of the fee; the method of calculation of the fee; the due date of the fee; and the opportunity to petition IDEM's determination. IDEM would need to maintain a Web page that lists registered manufacturers and processors.

IDEM must adopt forms and establish procedures for the receipt and maintenance of the registration statements and certifications and make these documents easily available to the public. Before June 1, 2010, and before June 1 of each year thereafter, IDEM must calculate estimated sales of video display devices sold to households by each manufacturer during the immediately preceding calendar year, based on national sales data. Under certain circumstances, IDEM must recommend to the General Assembly that the registration fee or the proportion of sales of video display devices required to be recycled be lowered.

Before August 1, 2013, and before August 1 of each year thereafter, IDEM must submit a report to the General Assembly, the Governor, the EQSC, and the Indiana Recycling Market Development Board. IDEM must promote public participation in recycling through public education and outreach efforts. IDEM must collect certain data and use the data to determine the manufacturer's variable recycling fee. IDEM must estimate for each registered manufacturer the sales of video display devices to households during each calendar year based on certain data and review the determination of each manufacturer's variable recycling fee to ensure that the fee was calculated accurately. IDEM may participate in a regional multistate organization to assist in implementing the provisions of the bill. If a national electronic waste program is implemented that is similar to the program established under the bill, IDEM must review, evaluate, and compare the national program, the program established under the bill, and any regional agreements.

(Revised) *Electronic Waste Fund.* The bill establishes the fund to implement the Electronic Waste Recycling Program. IDEM must administer the fund. Expenses of administering the fund must be paid from money in the fund. Money in the fund at the end of a state fiscal year does not revert to the state General Fund. The fund consists of money collected from registration fees.

If the total amount of registration fees collected for a state fiscal year exceeds the amount IDEM determines necessary to administer the program for the next state fiscal year, IDEM must refund on a pro rata basis to all manufacturers that paid any fees the amount that exceeds the amount necessary for administration of the program. IDEM is not required to refund amounts if either or both of the following apply:

- (1) The refund is less than \$100.
- (2) The amount the manufacturer claiming the refund recycled for the manufacturer's most recent program year was less than 50% of the amount the manufacturer was required to recycle for that program year.

(Revised) *Indiana Recycling Market Development Board*. The board must receive petitions and make determinations pertaining to relief from the variable recycling fee. IDEM's Division of Pollution Prevention provides staff for the board. These provisions could increase administrative expenses for IDEM; however, it is anticipated that IDEM will be able to cover additional administrative expenses given its existing level of resources.

Requirements for Purchases by State Agencies. The Department of Administration (DOA) must ensure that acquisitions of video display devices by state agencies comply with or are not subject to the provisions of the bill. State agency solicitation documents must specify that the prospective responder is required to cooperate fully in providing reasonable access to its records and documents to demonstrate compliance. A person awarded a contract by a state agency for purchase or lease of video display devices that is found to be in violation is subject to the following sanctions:

- (1) The contract is void if the DOA determines that the potential adverse impact to the state is exceeded by the benefit obtained from voiding the contract.
- (2) If the Attorney General establishes that any money, property, or benefit was obtained by a contractor as a result of a violation, the court may, in addition to any other remedy, order the forfeiture of the unlawfully obtained money, property, or benefit.

(Revised) *EQSC*. The bill requires the EQSC to study in 2012 certain issues concerning the electronic waste recycling program. This bill would have a minimal impact only if the EQSC held a meeting or meetings that it would not have held were it not for the need to study the topics assigned under the bill. If the committee met an additional time or times to consider the topic, per diem and travel expenses for the committee would increase. However, total expenses for the committee could not exceed its budget, which is established by the Legislative Council. The budget for the 2008 interim was \$16,500.

EQSC is funded from state General Fund appropriations to the Legislative Council and Legislative Services Agency.

Explanation of State Revenues: (Revised) *Manufacturer's Registration Fee*. Manufacturers must pay an annual registration fee to IDEM. The registration fee for the initial program year is \$5,000. Each year thereafter, the registration fee is equal to a base fee of \$2,500. In addition to the registration fee, a manufacturer that registers and fails to meet recycling goals is subject to a variable recycling fee for each program year that ends on March 31 of 2013 or of a later year. The variable recycling fee is determined by a formula based on the number of pounds of video display devices sold and the proportion of sales required to be recycled. A manufacturer that produces fewer than 100 video displays for sale to households during a year may not be charged a registration fee.

Based on FY 2007 data, revenue for the first year with the \$5,000 registration fee is estimated to range from \$2.5 M to \$4 M, with the reduced registration fee generating an estimated \$1 M to \$2 M per year, thereafter.

The amount of revenue that will be generated from the fee is indeterminable. However, if total fees collected exceed the amount IDEM determines necessary to operate the program, IDEM must refund on a pro rata basis the amount of fees collected that exceeds the amount necessary to operate the program. IDEM is not required to refund amounts of less than \$100. Manufacturers that report collections of less than 50% of their obligation for the previous program year are not eligible for a refund.

Nationwide according to the 2002 Economic Census, there were 1,603 computer and peripheral equipment

manufacturers and 572 audio and video equipment manufacturers for a total of 2,175 manufacturers. Some manufacturers only assemble products, and some only make commercial products. Assuming that all of the 572 audio and video manufacturers make consumer products for household use and assuming that 50% of the computer and peripheral equipment manufacturers would be required to register, an estimated 500 to 800 manufacturers would be required to register. Given these estimates, revenue generated for the first year with the \$5,000 registration fee could range from \$2.5 M to \$4 M. In subsequent years, the registration fee drops to \$2,500 for most manufacturers plus a variable recycling fee. The amount of revenue that would be generated by the variable recycling fee is indeterminable. The reduced registration fee would generate an estimated \$1 M to \$2 M per year.

Electronic Waste Fund. The fund consists of revenue generated by the registration fee. The Treasurer of State must invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments must be deposited in the fund.

(Revised) *Indiana Recycling Promotion and Assistance Fund.* IDEM must deposit variable recycling fee revenue in the fund. Under existing law, the fund may be used to assist persons in establishing new recycling businesses; in the expansion of existing recycling businesses; and manufacturers in retrofitting equipment necessary to reuse or recycle secondary materials. The fund may also be used to make grants for research and development projects involving recycling. Money in the fund may be transferred to the State Solid Waste Management Fund for use by IDEM to make payments to persons that remove from an end-of-life vehicle a mercury switch, an ABS sensor, or any other component containing more than 10 milligrams of mercury, and turn in the component.

The amount of revenue that will be generated by the fee is indeterminable because it will depend on entities not meeting recycling goals.

Requirements for Purchases by State Agencies. See *Explanation of State Expenditures* above.

Penalties. The bill prohibits mixing of certain electronic devices or any other computer, computer monitor, printer, or television with municipal waste intended for a landfill or disposal by burning after 2010. Violators would not be subject to a criminal or civil action or penalty or any other sanction. This provision would have no impact.

Explanation of Local Expenditures: (Revised) A city, a county, or any other governmental entity may not require a covered entity to use public facilities to recycle the covered entity's covered electronic devices to the exclusion of other lawful recycling programs available.

Explanation of Local Revenues:

State Agencies Affected: IDEM, DOA, LSA, Legislative Council, Attorney General.

Local Agencies Affected:

Information Sources: IDEM.

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